NO. 46776-3- II

Court of appeals, Division II

Of the state of Washington

Richard Severson, appellant,

V.

The Department of Social and Health Services,

Respondent

Appellant's Reply Brief

Richard Severson Pro Se

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Facts on Reply

The DSHS Response filed May 29, 2015, opposition to motion for discretionary review is a false statement of material fact.

The appellant requested an appeal and that appeal was granted by the court of appeals Div. II.

The DSHS response filed June 26, 2015 (pg 7) at III argument asserts that the appellant is now requesting discretionary review this is not the case, the appellant maintains his right to appeal as a matter of right Rap 6.1, rap 2.2(a)(1),(3)

The DSHS includes Robert w Ferguson, attorney general on their cover sheet as an attorney of record, he is also expressly stated as an attorney of record in the response brief of the DSHS to petition for Judicial Review (Pg 1) (c.p.790) which was filed June 6, 2014. The appellant showed the violations of Law and Rule, as to why Mr. Ferguson is not an attorney of record in his reply to DSHS response (pg 1-9) (c.p.976-984) filed June 20, 2014.

The errors of facts in this case are numerous and the appellant reserves the right to show these errors in oral argument, however the exhibits and witness list 1-9 and 1-3 respectfully were never legally admitted into the

record and exhibits 10 and 11 were never legally admitted into the record. This would leave the DSHS with no facts in this case, true or false, correct or incorrect.

Personal Rights of citizens of the united states, and of the state of Washington

Due Process: The legislature reaffirms that all citizens shall be afforded due process.rcw 26.44.100. Brief filed May 2, 2014 (pg 26) (c.p. 760) Further identified as brief.

wa.st.constitution article 1 section 3 personal rights. NO person shall be deprived of Life, Liberty, or property without due process of law.

u.s constitution amendment 5, trial and punishment, compensation for taking..... nor be deprived of life, liberty, or property without due process of law.

u.s. constitution amendment 14 Citizenship rights, no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of Life, Liberty, or Property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

Constitutional Right: A constitutional right is clearly established where the contours of the right have been defined, with specificity and sufficient clarity, as a result of decisional law or statute, so that a reasonable official would have known that his conduct violated the constitutional right, Gausvik, 126 wn.app. (2005) at 888; saucer 533 u.s. 194 (2001) at 202. Brief (Pg 26) (c.p 760)

Violation of rule is contrary to law: An agency acts contrary to law when it fails to abide by the rules which govern it, Simonds v. Kennewick, 41 wn.app 851 (1985) at [4,5]; Pierce Cy. Sheriff v. civil serv. commn. Supra at 694. Brief (pg 26) (c.p 760)

Statutory Laws for not performing a duty, and depriving another of a right: Rcw 9A.80.010 official misconduct (1) (a) (b) (2) gross misdemeanor, deprive another person of a lawful right/refrains from performing a duty imposed upon him by law.

Rcw 42.20.080 other violations by officers. Gross misdemeanor.... Who shall willfully disobey any provision of the law regulating his official conduct...

Rcw 42.20.100 failure of duty by public officer a misdemeanor, whenever any duty is enjoined by law upon any public officer, their willfull neglect to perform such duty, shall be a misdemeanor.

Controlling Order: Rcw 34.05.449 (1) The presiding officer shall regulate the course of the proceedings in conformity with applicable rules and the prehearing order if any.

Reply to DSHS response, filed June 20, 2014 (pg 51-57) (c.p 1025-1031) Further identified as reply. Brief (pg 27-29) (c.p. 761-763)

Conviction obtained through constitutional violations is void: IN Horn, the ninth circuit held that because Horn's conviction was obtained through constitutional violations, his sentence was void. Horn, 309 f.2d at 168 Gausvik v Abbey, 126 wn.app 868 (2005); Horn v. Bailie 309 f.2d 167 (9th cir 1962). Because of the loss of rights, stigma, reporting to Law Enforcement which came from finding of neglect, the founded finding is in essence, the same as a conviction. The violations of statutory law, decisional law, and the WAC which is a primary law in this state are constitutional violations of due process.

Legal Argument

Violations of law by the DSHS Board of appeals review judge:

1) **The whole entire record is not reviewed as mandated by law.**

Rcw 34.05.464 (5), wac 388-02-0600 (1), wac 388-02-0560 (4) require the whole entire record to be reviewed, brief (29-32) (c.p 763-766) Reply (pg 24) (c.p 1009) (pg 77-83) (c.p 1051- 1057).

2) **The controlling order is not complied with : Exhibits and witness list dead line.** Rcw 34.05.476 (2) (b) requires the agency to maintain an official record which includes "any prehearing order" and (2) (d) any evidence received or considered. Rcw 24.05.449(1) The presiding officer shall regulate the course of the proceedings, in conformity with applicable rules and the prehearing order. If any exhibits 1-9 are sent in twenty days past their deadline, exhibits 10 and 11 are sent in four business days before, the oct. 1, 2012 h-caring. Rcw 34.05. 461 (4) findings of fact shall be base exclusively on the evidence of record. Brief (pg 27-29) (c.p. 761-763) (pg 56-57) (c.p. 1030-1031). Reply (pg 58-59) (c.p. 1032-1033). June 12 2012 controlling order (000294-000296) (c.p)

Note: The review judge decided the issues denovo. Final order (pg 12) (000155) review decision and final order is (000144-000171).

3) **The Controlling order is not complied with: The allegations are limited to;**Mr Severson assaulted the mother of the child while she was holding the child. June 12, 2012 controlling order (pg 2 at 3.3) (000295). Brief (pg 15-19) (c.p. 749-753). Reply (pg51-53) (c.p. 1025-1027).

4) **The controlling order is not complied with: September 10 2012 in person hearing;** Controlling order (pg 2 at 3.1 and 3.2) (000295) Brief (pg 18) (c.p. 752). Reply (pg 55, 56) (c.p. 1029, 1030) I am the only person to show up for September 10 2012 in person hearing. I requested a dismissal of the finding on the DSHS exhibits being twenty days past their deadline, which was stipulated to as well as being in the controlling order, and the default Rcw 34.05.440 (1)(2) for the DSHS not showing up for the hearing. New evidence (c.p 910-915) rcw 34.05. 434 (2) (i) fails to attend is in default.

5) **The investigation exceeded the ninety days maximum:** wac 388-15-021 (7). Brief (pg 33) (c.p.767) (pg 12-15) (c.p.746-749). Reply (pg 47-50) (c.p.1021-1024)

6) **The appellant was not allowed to speak or participate in his own hearing:** Rcw 34.05.449 (2) to the extent necessary for full disclosure of all relevant facts and issues, the presiding officer

shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross examination, and submit rebuttal evidence. These laws were violated Rcw 34.05.020, Rcw 34.05.428 (1) (2), wac 388-02-0005 (2), wac 388-02-0010 (1) (2) (a) (b) (c), wac 388-02-0430 (1)(2) (a) (b)(c), Rcw 34.05.010 (12) (a) (b), Rcw 34.05.449 (1) (2) (3), rcw 34.05. 437 (1) (3) Vrp oct 1 2012 pg 9 at 16 thru pg 10 at 17 Brief (pg 18-19) (c.p752- 753) (pg 25-27) c.p 759-761) reply pg 66)

(c.p 1040).

7) The DSHS Petition for review did not contain the legal requirements for review: wac 388-15-135 reply (pg 33) (c.p. 1008) (motion for denial of review (000188-000209)

8) The DSHS Boa review Judge takes it upon himself to decide what the DSHS is challenging due to their lack of legal requirements and typo errors in the initial order.

" The departments petition for review must be challenging the second set of Fof " 4.26 and 4.27 found on pg 8, of the initial order which should have been numbered chronologically, "4.36 and 4.37". the review Judge Further states that he is confused why the department did not challenge the third FoF 4.25 on pg 8, of the

initial order which should have been numbered 4.35. Final order mailed April, 19 2013 (pages 14 at 10- pages 15 at 10) (000157-000158) This clearly shows why an employee representing the DSHS cannot be a neutral and disinterested tribunal.

9)The DSHS Finding of child neglect does not cite a valid legal authority: wac 388-15-073 what information must be in the C.P.S finding notice? The C.P.S finding notice must inform the alleged perpetrator of the department's investigative finding, including the legal basis for the findings... The notice must also contain the following. (2) information in the departments records May be considered in later investigations or proceedings relating to child protection or child custody. The finding notice states; child abuse and neglect is defined in state law. (pg 1), and cities wac 388-15-009 as their legal authority (pg 3). Wac 388-01-015 clearly states; no provision in title 388 wac creates or is intended to create any right or cause of action... This leaves the finding constitutionally defective, as there is no legal basis for the finding to exist. Washington st. constitution art. 1 section 3, us constitution amendment 5, 14 and article IV reply (pg 24) (c.p 999) Rap 2.5(a) error raised for the first time on review.

10) The DSHS Finding is based upon the appellants own admission: This is materially false statement; She described it more like a forceful push than a punch. Testimoney DSHS Sw Ms Luckhurst, reply (pg 13) (cp. 988).

Q: uh, do you think its possible that mr severson was acting as a protector for the child when he took the stroller to go back home?

A: That's possible. Testimony of Ms Luckhurst. Brief (Pg21) (c.p755)

Q: Okay, did Mr. Severson or Ms. Floyd, um, tell you that Ms. Floyd actually assaulted Mr. Severson (inaudible) ?

A: No.

Q: I'm sorry, did she say yes or no?

A: I said no.

Q: Okay. So, mr.severson never told you that he was assaulted by Ms. Floyd

A: Uh, he said that he was the victim in this. I—I don't recall whether or not he said that he was assaulted by her. Testimony of the DSHS social worker Ms. Luckhurst who wrote the finding, stating that it was based upon my own admission. V.R.P. Oct. 1 2012 (pg 38 at 25-pg 39 at 9.) Rcw 9A. 16. 110 states in part; no person in the state shall be placed in legal jeopardy of any kind

whatsoever for protecting by any reasonable means necessary, himself, or herself, his or her family, or his or her real personal property....

The appellant told Ms Luckhurst that he was assaulted by Ms. Floyd, that is why he is the victim, he also told ms Luckhurst that his son was in the stroller at the time of the incident. V.R.P. Oct.1,2012(pg 53 at 13-15)

11) **The DSHS Boa review Judge goes outside of his Legal Authority to use ER 803 (a)(4): an exception to the hearsay rule;**This is based upon a seven inch gash that never existed. DSHS exhibit 7 (pg 1, 000332) shows that Ms. Luckhurst as the author of this investigation report. Exhibit 7 (pg 4) (000335) states; to include a 7" gash on her shoulder, at subject and parent interview line 5. Ms Luckhurst had Ms Floyd's medical records, which show a 7" gash never, existed. V.R.P. oct 1, 2012 pg 28 at 24- pg 29 at 2 reply (pg 40) (c.p. 1015) (pg 39) (c.p. 1014). New evidence (c.p. 906- 909). Brief (pg 38-40) (c.p. 772-774) Rcw 34.05.452 (1)(2) State; (1) ... The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. (2) IF not consistent with subsection (1) of this section,

the presiding officer shall refer to the Washington Evidentiary rulings. ER 803 (a) (4) is from the rules of evidence. The appellants written argument includes statutory and decisional law on personal knowledge, this written argument was provided twice in to the record. First on oct 10, 2012, and second in the appellants motion for denial of the D.S.H.S request for review pg d1- d25 (000 231- 000 255) Brief (pg 38-39) (c.p 772-773) Rcw 34.05.476 (1) an agency shall maintain an official record of each adjuciative proceeding under this chapter. (2) the agency record shall include: (a) notices of all proceedings; (b) any prehearing order; (c) any motions, pleadings briefs, petitions, requests, and intermediate rulings; (D) **Evidence received or considered;** (e) a statement of matters officially noticed; (3) except to the extent that this chapter or another statute provides otherwise, the agency record constitutes the exclusive basis for agency action in adjudicative proceedings under this capter and for judicial review of adjudicative proceedings. Rcw 34. 05. 461 (4) findings of fact are to be based exclusively on evidence of record Rcw 34.05.476 (2)(D) shows the appellants written argument from oct.10, 2012 exist in the record and Rcw 34.05. 461 (4) shows findings of fact are to come from the record the final order (pg 12) (000155) Shows the review Judge

decided the issues de novo at 4. Line 3, and the credibility de novo, Final order (pg 15) (000158) at 11 line 10 and that the review Judge did not review the whole entire record required by law as can be seen, Final order (pg 14) (000157). Violation (1) of this brief.

12)DSHS exhibits 10 and 11 are sent in four business days before the oct 1 2012 in person hearing: They were never provided to the appellant as required by wac 388-02-0045 what is service, wac 388-02-0055 when must a party serve someone Rcw 34.05.437 (3) a party that files a pleading, brief, or other paper with the agency or presiding officer shall serve copies on all other parties, VRP oct 1, 2012 (pg 8 at 12-23), order an appellants motion to dismiss (pg 4 at 4.21) (000273-000378) (000372). Brief (pg 19-20) (c.p. 753-754) (pg 27.28) (c.p 761-762). Reply (pg 59-60) (c.p.1033-1034)

13) The wrong standard is applied: wac 388-02-0485 what is the standard of proof? Unless the rules or law states otherwise, the standard of proof in a hearing is a preponderance of the evidence. Case law is very clear that the standard should be the clear and convincing standard due to the loss or rights, stigma i.e. reporting to police, registry even the right to the custody of one's child. The

clear and convincing standard is applied where the threatened loss due to a civil proceeding is comparable to the loss of liberty in a criminal proceeding. Addington v, Texas 441 u.s 418, 432-33 99 s. ct 1804, 60 L. Ed.2d 323 (1979); NGUYEN V. Dept of Health, 99 wn.app. 96 (1999) at 10. This standard also applies to government initiated process that threatens an individual with stigma. Loss of rights in part; wac 388-15-017 (6), wac 388-15-001 (c) (d), wac 388-15-113 (1), Rcw 26. 44. 030 (4), Rcw 26. 44 .195 (4), Rcw 74. 15. 130, wac 388-15-073. Liberty has been defined in our u.s supreme court which can be seen in; In Re Luscier, 84 wn.2d 135 (1974) at 136. The fundamental nature of parental rights as a liberty protected by the due process clause of the fourteenth amendment was given expression in, Meyer V. Nebraska, 262 u.s. 390 (1923). Brief (pg 33-36) (c.p. 767-770), reply (pg 84-86) (c.p.1058-1060)

14) Confrontation clause: Rcw 9A. 72. 080 statement of what one does not know to be true. Every unqualified statement of that which one does not know to be true is equivalent to a statement of that which one does not know to be true. Rcw 9A. 72.085 unsworn statements, certification. (1) recites that it is certified or declared by the person to be true under penalty of perjury; (2) is subscribed

by the person; (3) states the date and place of its execution; and (4) states that is is so certified or declared under the laws of the state of Washington. [3] under ER 602, the rule bars testimony purportedly relating facts. When they are based only on the reports of others. Hollingsworth V. wa. Mu. Savings bank, 37 wn.app.386,393,681 p.2d 845(1984). Personal knowledge of a fact cannot be based on the statement of another. John Henry Wigmore, Evidence 657 (revised by Chadbourn (1979) McCormick on evidence 10 John W Strong ed. 4th ed (1992). State v. smith, 87 wn.app. 345 (1997) at [3].

[5] The burden of laying a foundation that a witness had an adequate opportunity to observe the facts to which he testifies is upon the proponent. 5 K Tegland, wash, prac, evidence 219 (2d ed 1982). State v. lefever, 102 wn.2d 777, 690 p.2d 574 (1984) at 111 [5]. Written argument filed 10-10-2012, and again on Jan 16, 2013 in motion to deny the DSHS petition for review (000188-000367) Brief (pg 39-40) (c.p. 773-774) reply (pg 64) (c.p 1038) (pg 66) (c.p. 1040) Rcw 10.52.060 confrontation of witnesses... Shall have the right to meet the witnesses produced against him or her face to face; provided that whenever any witness whose deposition shall have been taken pursuant to law by a magistrate in the presence of

the defendant and his or her counsel. Rcw 34.05.461 (4)... The presiding officer shall not base a finding exclusively on such inadmissible evidence unless the presiding officer determines that doing so would not unduly abridge the party's opportunities to confront witnesses and rebut evidence. The bases for this determination shall appear in the order. Wac 388-02-0475 what evidence does the ALJ consider? The ALJ may only base a finding on hearsay evidence if the ALS finds that the parties had the opportunity to question or contradict it. Idaho v. Wright, 497 u.s. 805, 111 L.Ed. 2d 638, 110 s.ct.3139 (1990); state v. florczak, 76 wn.app 55, 68-70, 882 p.2d 199(1994) Are two more decisional laws on the confrontation clause that are on point. With no sworn statements, and being unable to confront the authors of any writings. It leaves the appellant without ability to sue, or prosecute, or clear his name. Reply (pg 39) (1014)

15) Presumptions: A presumption in precise and ordinary usage, is a legislative or court made rule, or statute, that is concerned with matters of evidence- matters of fact, not of law, presumptions are meant to solve problems of missing evidence... Jennifer Friesen, State courts as sources of constitutional law: how to become independently wealthy, 72 Notre Dame L. Rev. 1065, 1091 (1997)

Legal questions are not ordinarily presumptive candidates because the law is at hand, thus all courts determine legal issues de novo. In re Electric Lightwave inc, 123 wn.2d 530.536, 869 p.2d 1045 (1994). "This court examines issues of law de novo" Legal questions concerning the scope of constitutional powers are no less legal questions. See Friesen, Supra at 1091. "Presumptions can not decide matters of law... [A] true presumption of constitutionality is logically impossible. Robert Satter & Shelley Gaballe litigation under the Connecticut – developing a sound jurisprudence, 15 conn. L. rev. 57, 70 (1982) ("The standard also is unsuitable because in constitutional cases the issue is one of law, not fact.") Justice Linde writing for the majority of our sister court in Oregon, overtly recognized the same, noting the "presumption of constitutionality" is all misleading usage, since presumptions properly refer to the factual predicates (which may include the presumption that the legislature meant to enact a valid law) but not to the legal conclusion at issue." Brown V. Multnomah county dist. Court, 280 or. 95, 570 p.2d 52, 56 n6 (1977). Island County v. state, 135 wn.2d 141 (1998) at 156

16) Business Records as evidence. Rcw 5.45.020 Business records as evidence. States; a record of an act, condition or event,

shall in so far as relevant, be competent evidence IF the custodian or other qualified witness testifies to its identity and the mode of its preparation, these legal requirements were never performed by the DSHS. Reply (pg 41-42) (c.p. 1016-1017)

17) Right to a neutral and disinterested tribunal: wac 388-02-0010 what definitions apply to this chapter? Define the DSHS Boa review Judge as an employee, representing the DSHS as a matter of law the DSHS cannot decide their own cases. Challenged cases go outside the DSHS, to the office of administrative hearings who is supposed to be an impartial tribunal, and is held responsible for that inpartiality, Rcw 34.12.010 letter to court 12 filed sept.10,2014 (pg 11) (c.p. 1093) Further identified as letter to court 12 this case then went back to the DSHS Boa who re-decided the entire case, without reviewing the entire record, and did not provide written argument to the appellant, as mandated by law Rcw 34.05.464 (6) Reply (pg 76) (c.p. 1050) Brief (pg 24) (c.p. 758) "The due process clause entitles a person to an impartial and disinterested tribunal in both civil and criminal settings, Marshall v. Jerrico inc, 446 u.s. 238, 242 (1980). The principle of impartiality is as old as the courts. It is as a fundamental idea and is acknowledged inviolability of this principal that gives credibility

to justice decrees". State ex Rel Barnard V. Bd of educ, 19 Wash. 8, 17-18 (1898). Brief (pg 36-37) (c.p. 770-771). Reply (pg83-84) (c.p. 1057- 1058) Rcw 34.05.570 (1)(d) the court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by the action complained of, Rcw 34.05.570 (3)(b) the order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law; (a) the order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied; (c) the agency has engaged in unlawful procedure or decision-making process, or has hailed to follow a proscribed procedure;(d) the agency has erroneously interpreted or applied the law; (e) the order is not supported by evidence that is substantial when viewed in light of the whole record before the court which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter. (i) The evidence received by the court under this chapter. (i) The order is arbitrary and capricious. The appellant is greatly prejudiced by the DSHS Boa review Judge in his de novo review and by an employee representing the DSHS deciding the case. The final order is outside of the authority of the DSHS Boa review judge. The review

judges' decision making is arbitrary and capricious, there for his order is as well. The appellant, assigns constitutional violations of Washington State constitution article 1 section 3, United States constitution amendments 5, 14 to violations of law numbers 1, 2, 3 , 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 in this reply brief.

18)contempt of court: The DSHS Boa review Judge was mandated by the word "shall", to review the whole entire record. Wac 388-02-0600(1), Rcw 34.05.464 (5) and that record was to be transmitted to the superior court for judicial review Rcw 34.05. 566 (1) (2). Rcw 34.05.566 (1) further reads in part; and any other material described in this chapter as the agency record for the type of agency action at issue, subject to the provisions of this chapter. Rcw 34. 05. 476 agency record.

(1) An agency shall maintain an official record of each adjudicative proceeding under this chapter. (2) The agency record shall include: (A) Notices of all proceedings;(b) any prehearing order; (c) any motions, pleadings, briefs, petitions, request, and intermediate rulings; (d) evidence received or considered; € a statement of matters officially noticed; (f) proffers of proof and objections and rulings thereon;(g) proposed findings, requested

orders, and exceptions;(h) the recording prepared for the presiding officer at the hearing, together with any transcript of all or part of the hearing considered before final disposition of the proceeding; (i) any final order, initial order, or order on reconsideration; (J) staff memoranda or data submitted to the presiding officer, unless prepared and submitted by personal assistants and not inconsistent with Rcw 34.05.455; and K) Matters placed on the record after an ex parte communication. (3) Except to the extent that this chapter or another statute provides otherwise, the agency record constitutes the exclusive basis for agency action in adjudicative proceedings under this chapter and for judicial review of adjudicative proceedings. The entire record has not been provided by the DSHS Board of appeals in this case and contempt can be seen in the appellants motion for contempt, filed June 20, 2014 (c.p.806-902) and reply (pg 81-83) (c.p. 1055-1057). Contempt of court is made a constitutional right of the appellant by statutory laws rcw 7.21.010 (a)(b)(d)(2), Rcw 7.21.020, Rcw 7.21.030 (1)(2)(b)(3) and court rule cR 37. The distinction between directory and mandatory statutes is the violation of the former is attended with no consqeuqences while the failure to comply with the requirement of the latter either "invalidates" purported transactions or subjects

the non-complier to affirmative legal liabilities. Niichel V. Lancaster, 97 wn.2d 620, 647 p.2d 1021 (1982) reply (pg 77-78) (c.p.1051-1052) "the use of the word shall" in a statute is imperative and operates to create a dutey". State v. McDonald, 89 wn.2d 256, 571 p.2d 930 (1977) state liquor control Bd. V. state personnel Bd., 88 wn.2d 368, 561 p.2d 195 (1977) Spokane County Ex Rel. Sullivan V. Glover, 2wn.2d 162, 97 p.2d 628 (1940) motion for contempt (pg 44) (c.p.731) The Nov.1, 2013 order from the superior court 12, was an order setting the case schedule and allowing the DSHS until jan 3, 2014 to provide the complete record, this created a purging time for the DSHS to comply with the laws requiring them to provide the record. They chose not to provide the record in defiance to statutory law and the appellant's constitutional rights to a fair and lawful judicial review. This put the DSHS Board of appeals in contempt for the second time on jan 4, 2014. That order is (c.p. 731). The motion hearing was july 11, 2014 the DSHS or their representation did not show up for the motion hearing. The trial judge stated that she would hear the matter in the trials oral argument. VRP July 11, 2014 (pg2 at 7-pg3 at 13). At the Sept 12 2014 trial for judicial review, the same trial judge states; well I'm not hearing any motion for

contempt. VRP Sept. 12, 2014 (pg 8 at 19- pg 9 at 3). The DSHS is still in contempt of court at this time. Proof of service was filed July 8, 2014 (c.p. 1066-1077) the appellant has tried to obtain a full authented copy of the record see new evidence (pg 10) (c.p. 915) and (pg 19 -26) (c.p. 924-931.) **19) I am the only person to show up for the September 10, 2012 in person hearing:** A telephonic hearing was denied to DSHS Ms. Bartlet in the 6th pre hearing held June 12, 2012, and an in person hearing was granted to the appellant. I am the only person to show up for the hearing, see notice of hearing, new evidence (pg 5) (c.p.910), see also sign in sheet from the attorney general's office for September 10, 2012, new evidence (pg 8) (c.p. 913). A room is provided for me, and mr. Brown, Ms. Bartlets husband appears by phone, as well as the new ALJ Henke. Ms. Bartlet was requested to reserve the room and set up the hearing by ALJ HeAnle in the 6th prehearing. The appellant requested a dismissal of the finding as this is clearly a default Rcw 34.05.440(2). The appellant also objects to the DSHS exhibits. New evidence disc September 10 2012 inperson hearing at (9:46-12:10) (10:32-12:10) (11:35-12:10) Brief (pg 17-19) (c.p. 751-753) Reply (pg 55-57 (c.p. 1029-1031

20) No Jury trial was provided: Brief (pg 9) (c.p. 743) Motion for contempt (pg 60, 61, 62) (c.p 870, 871, 872)

21: Appellant is not provided the right to written argument by the DSHS Boa Review Judge As required by Rcw 34.05.464 (6) Brief (pg 24) (c.p 758) The appellant was entitled to written argument in the DSHS review as a matter of law, Rcw 34.05.464 (b) the reviewing officer shall afford each party an opportunity to present written argument. Wac 182-526-05 95 a review judge is assigned to review the initial order after the record is closed motion contempt of court (pg 23) (c.p 833)

22) Appellants motion for denial of the depts. Petition for review is Faxed and sent in on time: 1-16 2013, 1:12:02 PM and should be included into the record reply (pg 74) (c.p. 1048) also (000033-000034) motion for denial of review requesting pg 31, 32 (000185, 000186)

Abuse of Discretion

The trial court abused her discretion by not addressing the assignments of error in the appellants brief filed May 2, 2014 numbers 1-14, on an individual basis, and merely refers to them as procedural issues, Rcw 34.05.570 (1) the court shall make a separate and distinct ruling on each material issue on which the

court's decision is based; and (d) the court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by the action complained of. The DSHS exhibits 1-9 are twenty days past their deadline of a controlling order that was stipulated to, this greatly prejudiced the appellant. The DSHS exhibits 10 and 11 are provided 4 business days before the oct. 1 hearing and were never provided to the appellant, this greatly prejudiced the appellant. The appellant was not allowed to speak or participate in his own hearing to defend himself, this greatly prejudiced the appellant. The DSHS Boa review judge did not review the entire record, this greatly prejudiced the appellant. The appellant was the only person to show up for the Sept, 10 2012 in person hearing, this greatly prejudiced the appellant. The final order does not stay within the confines of what the allegations are limited to in the controlling order, this greatly prejudiced the appellant, the DSHS petition for review did not contain the legal requirements, this greatly prejudiced the appellant. The DSHS Boa Review judge is not entitled to review the case because he is an employee representing the DSHS, this greatly prejudiced the appellant. The appellant's ability to rebut the evidence was unduly and unjustifiably abridged, persons could have been subpoena to

appear and signed sworn statements could have been procured, this greatly prejudiced the appellant. "A trial court abuses its discretion only when its decision is manifestly unreasonable or is based on untenable reasons or grounds." State v. c. j. , 148 wn. 2d 672, 686, 63, 765 (2003). A discretionary decision is manifestly unreasonable if it " is outside of the range of acceptable choices, given the facts and the applicable legal standard." State v lamb, 175 wn.2d 121, 128, 285 p.3d 27 (2012) qouting state v. powell, 126 wn.2d 244,258,893 p.2d 615 (1995) a discretionary decision "is based on 'untenable grounds' or made for 'untenable reasons' if it rests on facts unsupported in the record or was reached in applying the wrong legal standard" state v. Rohrich, 149 wn.2d 647, 654, 71 p.3d 638 (2003) qouting state v rundquist, 79 wn, app. 786, 793, 905 p.2d 922 (1995) ; see also state v. dye, 178 wn. 2d 541, 548, 309 p.3d 1192 (2013)

The trial judge states her standard of review is, questions of law de novo and question of fact whether or not there is substantial evidence in the record to support a factual findings. VRP Sept 12, 2014 (pg 7 at 4-12) the trial judge states on assignments of error, "I'm not going to go through all of them because they are numerous, except to say this: I looked at his decision because, it

seemed to me, sort of critical assignment of error was whether or not he could reach the decision that the otherwise statements were either not hearsay or they were corroborated or both, and I believe that he could, under the rules that apply at that proceeding, look at the evidence. And given that he could look at that evidence, there is evidence – according to his findings – VRP Sept 12 2014 (pg 26 at 8-18), and so I do find that the evidence that he looked at was within his authority and, therefore, the findings of fact are supported by substantial evidence that he had the authority to consider, which really was the question in order to get the legal question—or it's kind of a mixed question there of whether or not he had the authority to look at that evidence, and as far as I can tell, from my review of the record, his decision – and my review of the applicable statute, that is his role and his right and he "VRP Sept, 12 2014 (pg 27 at 1-11)" AS I previously indicated, the standard of review is, is there an error of law? I could not find one. Are the findings of fact supported by substantial evidence? I find they are, so I'm upholding the decision. I'm not granting the appeal. You of course have the right to appeal that decision, Mr Severson." VRP Sept. 12, 2014 (pg 32 at 4-10) as the trial court is mandated to make a separate and distinct ruling on each material

issue on which the court's decision is based Rcw 34.05.570 (1) It appears that by stating that she could not find an error of law and the findings of fact are supported by the evidence, VRP Sept 12 (pg 32 at 4-10) and her review of the applicable statute VRP Sept 12 (pg 27 at 10) whatever that statute that may be that she is referring to, the trial judge decides because it seems to her the critical assignment of error is his decision, she does not refer to an assignment number and the appellant had no assignment that went exclusively on his decision. I did not ask the judge what seemed critical to her, she is supposed to decide the assignments of error de novo and make a distinct ruling on them as they are issues of Law, and as the DSHS exhibits cannot stand up to the legal challenge, they cannot exist. If the DSHS exhibits due not exist there are no facts in the case. The trial judge clearly abused her discretion which is manifestly unreasonable given her choice not to review the assignments of error before her, this is a further constitutional violation wa. st. const. art 1 section 3 u.s. constitution amendment 5, 14. By denying to review the assignments of error because they are numerous punishes the appellant and rewards the state for violating the laws in the first place, this would be untenable reasons or grounds which again is

abuse of discretion. The APA provides nine bases for which to challenge an agency decision [1] under the administrative procedure act (APA) Rcw 34.05.570(3). In reviewing an agency order in an adjudicative proceeding, a court may grant relief only if it determines that;(a) the order, or statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied; (b) the order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law; (c) the agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure; (d) the agency has erroneously interpreted or applied the law; the order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter. (f) the agency has not decided all issues requiring resolution by the agency; (g) a motion for disqualification under Rcw 34.05.425 or 34.12.050 was made and was improperly denied or if no motion was made, facts are shown to support the grant of such motion that were not known and were not reasonably discoverable by the challenging party at the appropriate time for making such a motion;(h) (h) the order is

in consistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency: or (I) the order is arbitrary or capricious. Hardee v. DSHS., 52 wn.app 48 (2009) The DSHS Boa review judge is an employee representing the DSHS and legally cannot decide the case, Rcw 34.05.570(3)(a)(B) the appellant was not allowed to speak or participate in his hearing Rcw 34.05.570 (3)(a)(c)(a)(I). The controlling order is not complied with the Rcw 34.05.570 (3)(a)(c)(d)(I) This pertains to (1) deadlines for exhibits (2) the in person hearing for Sept 10 2012. (3) What the allegations are limited to. The whole entire record is not reviewed by the DSHS Boa review judge Rcw 34.05.570(3)(a)(c)(d)(i). The DSHS Boa goes outside of his authority going to the rules of evidence Rcw 34.05.570 (3)(a)(c)(d)(h)(I). The petition for review by the DSHS did not contain the legal requirements Rcw 34.05.570 (3)(A)(B)(C)(D)(I). The investigation exceeded the ninety days maximum. For its investigation Rcw 34.05.570 (3)(a)(c)(I) The founded finding notice does not contain its legal authority Rcw 34.05.570 (3) (a) (c) (d) (I) The entire record is not provided for judicial review Rcw 34.05.570 (3) (c) (d).

[1] 917 Interpretation of an evidentiary rule is a question of law, which we review de novo. State v. devincentis, 150 wn.2d 11,17,74 p.3d 119 (2003) When the trial court has correctly interpreted the rule, we review the trial courts' decision to admit evidence under ER 404(b) for an abuse of discretion. Id; state v. Thong, 145 wn.2d 630, 642, 41 p.3d 1159 (2002) "Discretion is abused if it is exercised on untenable grounds or for untenable reasons". Thong, 145 wn.2d at 642 (Citing state ex rel. carrol v.junker, 79 wn. 2d 12, 26, 482 p.2d 775 (1971). Failure to adhere to the requirements of an evidentiary rule can be considered an abuse of discretion. State v. neal, 144 wn.2d 600, 609, 30p.3d 1255 (2001) (Citing state v. rivers, 129 wn.2d 697, 706, 921 p.2d 495 (1996). The appellants written argumenet from oct 10 2012, and again provided to the record on jan 16, 2013 in the appellants motion for denial of DSHS petition for review prohibits the DSHS Boa review judge form going to the rules of evidence Rcw 34.05.452 (1) (2). The trial judge abused her discretion by finding the DSHS Boa review judge had the lawful right to go to the rules of evidence

Appellate Review

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Rcw 34.05.526, expressly states; an aggrieved party may secure appellate review of any final judgment of the superior court, or the court of appeals. The appellant has a right to appeal and did not intentionally if at all change that right to go to a discretionary review. Rap2.1 rap 2.2 (1) (3)

Standing to obtain judicial review

Rcw 34.05.530, expressly states; a person has standing to obtain judicial review of agency action if that person is aggrieved or adversely affected by the agency action. A person is aggrieved or adversely affected within the meaning of this section only when all three of the following conditions are present: (1) the agency action has prejudiced or is likely to prejudice that person;(2) that persons' asserted interest are among those that the agency was required to consider when it engaged in the action challenged; and (3) a judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the agency action. The appellant has shown the prejudice with violations of law and rule and the controlling order in this case. The appellant asserted interest are his constitutional rights, rights

to his son without government interference, and that he was filing for custody of his son before this action and this action has stopped that filing. VRP Oct1, 2012 (pg 54 at 11-16). A judgment in favor of the appellant would substantially eliminate and redress the prejudice caused by the DSHS.. The appellant has exhausted all administrative remedies before petitioning for judicial review as required by Rcw 34.05.534. Rcw 34.05.020 expressly states that nothing in this chapter diminishes constitutional rights additional requirements imposed by statute or otherwise recognized by law and that evidence and procedure requirements apply equally, the trial judge had no legal right to deny the judicial review and she does not make a separate and distinct ruling on why the judicial reviews is denied. (c.p. 1103) How can a person lose all of the constitutional rights shown that came with a finding of child neglect, when the DSHS violated all of the laws and rules and constitutional rights shown, without being able to speak to defend them self without a jury to decide the case in a country where we are presumed innocent until proven guilty? The appellant has clearly demonstrated his constitutional right to judicial review, and His right to appeal as a matter of right rap 2.1 and rap 2.2 (1) , (3). Rap 2.5 (a) Error raised for the first time on review

Conclusion

The conclusion is the same as the appellants brief filed april 29, 2015, pg 43 but includes that the DSHS founded finding notice is constitutionally defective and that the Rcw 26.44.020that would have made it legal, is constitutionally defective as it is void for vagueness, as well as relief for contempt of court, and attorney fees under Rcw 7.21.030 (2) (b), (3) ; Rap 17.8 *Richard Severson*

Richard Severson

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APPENDIX

Constitutional Challenge

of Rcw 26.44.020, rule 10.3 (8) and rule 10.4 (c) for Appendix

This challenge is on its face and as applied. AS in this case, this finding stems from an accidental bruise on my sons forehead 2 cm in size which is the size of a u.s. penny that I did not cause, which happened while my son was in his stroller and the appellant was defending himself.

This statute is void for vagueness.

Rcw 26.44.020 (14) is referred to for the first time in this case by the DSHS Boa review judge in his review decision and final order

Appendix 1

pg 23 (000166) (c.p) the cps finding did contain this statute as required by wac 388-15-073 it only cited wac 388-15-009 as their legal authority, which cannot be used as a right of cause of action, wac 388-01-015, the superior court does not allow for this challenge in judicial review, leaving the court of appeals the proper court for this challenge. The due process doctrine of void for vagueness has two central principles. First criminality must be defined with sufficient specificity to put citizens on notice as to what conduct they must avoid. Second, legislated crimes must not be susceptible of arbitrary and discriminatory law enforcement. State v. Brayman, 110 wn.2d 183, 196, 751 p.2d 294 (1988) Kolender v, Lawson, 461 u.s 352, 357-58,75 L. Ed.2d 903, 103 s.ct.1855(1983) when a criminal statute fails to abide these requirements we will hold it void and reverse a conviction obtained under it, see E.G. Bellevue v. miller, 85 wn.2d 539, 536 p.2d 603 (1975) at [2].... The basic rule is familiar: A statute will be deemed constitutionally vague if "persons of common intelligence must necessarily guess at its meaning and differ as to its application." State v. white, supra at 98-99: connally v. general construction.co, 269 u.s. 385, 391, 70 L. Ed 322, 46 s. ct. 126 (1926) the factual setting of a case is irrelevant where the entire

statute is challenged as constitutionally vague. Bellevue v. miller, 85 wn .2d 539, 541, 536 p.2d 603 (1975) "When it is alleged that a statute is wholly unconstitutional, the court looks not to the conduct of the defendant, but to the face of the statute to determine whether any conviction under the statute could be constitutionally upheld." State V. Maicolek, 101 wn.2d 259, 262-63, 676 p.2d 996 (1984) quoting state v. hood, 24 wn.app 155, 158, 600 p.2d 636 (1979) the relation between a statute and the constitution, on the other hand does not involve the question of proof of facts, but is one of the pure law. An unconstitutional statute is void, and the strength of the proof of facts in a given case is irrelevant to our determination of facial constitutionally protected rights, we are mandated to declare such statute void. Constitution article 1 sec 29 state ex rel luketa v. Pollock, 136 wash. 25, 31, 239 p.8 (1925) from state v. smith, 111 wn.2d 1 759 p.2d 372 (1988) at 11. No one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. Lanzetta v. new jersey, supra at 453 u.s.. in Bellevue v. miller, 85 wn.2d 539, 536 p.2d 603 (1975), the Washington supreme court set forth guidelines for determining constitutionality: The constitutional requirement of definiteness of statutes has two bases. The first is that citizens must have notice of

what conduct is proscribed. Secondly, vague laws offend due process because they "Leave" judges and jurors free to decide without any legally fixed standards, what is prohibited and what is not in each particular case." Miller, at 544. Quoting Giaccio v. Pennsylvania, 382 u.s. 399, 402-03, 15 L. Ed.2d 447, 86 s. ct. 518 (1966). The requirement that criminal legislation be definite is premised on two considerations: (1) Citizens must have notice of what conduct is criminally proscribed, and (2) vague laws permit arbitrary arrest and convictions Bellevue v. miller, supra; vagueness in a statute is equally intolerable if it is in the description of the proscribed conduct or an exception to the reach of the statute. State v. hilt, supra; state v. hill, kan.403, 369 p.2d 365 (1962); 21 am. Jul. 2d criminal law 17 (1981).

From state v. Jones, 9 wn.app 1 .511 p.2d 74 (1973) at 4 ... the united states supreme court, in papachristou v. Jacksonville, 405 u.s. 156, 31 L.Ed. 2d 110, 92 s. ct. 839 (1972), struck down the entire Jacksonville city vagrancy ordinance as being void for vagueness. The supreme court said, through justice douglas, that the florida vagrancy statute was void for vagueness both in sense that it "fails to give a person of ordinary intelligence Fair Notice that his contemplated conduct is forbidden by the statute" And

because it encourages arbitrary and erratic arrest and convictions. Papachristou, 405 u.s. at 162. From state v. tinker, 155 wn.2d 219 (2005) at 221 [2] the legislature defines the elements of a crime. State v. wadsworth, 139 wn.2d 724, 734, 991 p.2d 80 (2000) therefore, we first turn to the statute defining the crime to determine the essential elements, from state v. Anaya, 95 wn. App. 751 (1999) at 755 legislative intent is primarily determined from the statutory language. Duke V. Boyd, 133 wn.2d 80, 87, 942 p.2d 351 (1997), when words in a statute are clear, we are required to apply the statute as it is written. Duke, 133 wn. 2d at 87, we may not read into statutes wording that is not even if we believe that the legislature may have inadvertently omitted it. In re custody of smith, 137 wn.2d 1, 12, 968 p.2d 21 (1998), from Davis v. department of licensing, 137 wn.2d 957 (1999) at 964 the initial principle of statutory interpretation is we do not construe unambiguous statutes: " In judicial interpretation of statutes, the first rule is, 'the court should assume that the legislature means exactly what it says, plain words do not require construction.'" State v. mccraw, 127 wn.2d 281, 288, 898, p.2d 838 (1995) quoting city of Snohomish v. joslin, 9 wn. App. 495, 498, 513 p.2d 293 (1973) at 971 also, the rule of statutory construction that

trumps every rule "The court should not construe statutory language so as to result in absurd or strained consequences." In re custody of smith, 137, wn.2d 1,8,969 p.2d 21 (1998) quotuing Duke V. Boyd, 133 wn.2d 80, 87, 942 p.2d 351 (1997). From Sebsatian V. Labor & Industries, 142 wn.2d 280 (2000) at 284 holding statutes susceptible to more than one interpretation ambiguous. The drafting of a statute is a legislative, not a judicial function. State V, Enloe, 47 wn.app. 165, 170, 734 p.2d 520 (1987). Rcw 26, 44.020 Is ambiguous and there for it is void for vagueness as it does not have sufficient specificity to define what conduct is prohibited, and what conduct is criminally proscribed there for it permits arbitrary arrest, convictions and findings, whether or not Rcw 26, 44. 020 (14) is found to be ambiguous or not has no bearing on whether the statute is void for vagueness, however if it is ambiguous it most certainly is void for vagueness. The constitutionality of Rcw. 26.44.020 (14) cannot be presumed to be constitutional as presumptions cannot decide matters of law. Friesen, Supra at 1091; Robert Satter & Shelley Goballe Litigation under the Connecticut- Developing a sound jurisprudence, is conn. L. Rev. 7, 70 (1982); Brown V. Multnomah county dist. Court, 280 or. 95 570 p.2d 52, 56 nb (1977); Island

County v. State, 135 wn.2d 141 (1988) at 156. Article VI of the United States constitution and amendment 14, and 5 wa. St. Constitution article 1 section 3.

Richard Severson

Appendix 7

RCW 26.44.020

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(4) "Child protective services section" means the child protective services section of the department.

(5) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

(6) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

Appendix B

(7) "Court" means the superior court of the state of Washington, juvenile department.

(8) "Department" means the state department of social and health services.

(9) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(10) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.

(11) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(12) "Inconclusive" means the determination following an investigation by the department, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(13) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(14) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(15) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(16) "Negligent treatment or maltreatment" means an act or a failure to act, or the

cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(17) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(18) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(19) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(20) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(21) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(22) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(23) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

Appendix 10

(24) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(25) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(26) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

Richard Severson

APPendix 11

Pierce county No. 13-2-09348-6

appeal No. 46776-3-II

Court of appeals, Division II,

of the state of Washington

Richard Severson

appellant,

V.

The Department of Social

and health Services

Respondent.

Proof of Service for reply Brief of appellant

Filed aug. 31 2015, and motion For an over-Lenght Brief

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